

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

David Green, Jr.,)	
)	
Plaintiff,)	Civil Action No. 6:20-cv-02754-TMC
)	
vs.)	
)	
State of South Carolina; County of)	ORDER
Greenville; Director S. Bodiford; 13th)	
Circuit Judge Letitia Verdin; Sgt. Hall;)	
Sgt. Gantt; Ofc. Burris; and Ofc. Neely,)	
)	
Defendants. ¹)	
)	

Plaintiff David Green, Jr., proceeding *pro se* and *in forma pauperis*, brought this civil action to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(c) (D.S.C.), this matter was referred to a magistrate judge for all pretrial proceedings. Before the court is the magistrate judge’s Report and Recommendation (“Report”), recommending that the court dismiss the action with prejudice and without service of process for failure to state a claim. (ECF No. 15). Plaintiff was advised of his right to file objections to the Report. *Id.* at 10. Plaintiff filed no objections, and the time to do so has now run.

The Plaintiff filed his original Complaint on July 27, 2020. (ECF No. 1). On July 31, 2020, the magistrate judge issued an Order directing Plaintiff to bring the case into proper form and advising Plaintiff of his duty to keep the court informed as to his current address. (ECF No. 5). Plaintiff filed his Amended Complaint and a proposed summons on August 27, 2020. (ECF Nos. 11, 12). Subsequently, on August 31, 2020, Plaintiff filed notice with the court that his

¹ On August 27, 2020, Plaintiff filed an Amended Complaint no longer naming Defendants John Doe and Greenville County Detention who were, therefore, dismissed from this action. *See* (ECF No. 11).

address had changed. (ECF No. 14).

On September 3, 2020, the magistrate judge filed the Report, and a copy of it was placed in the mail to Plaintiff at his new address. (ECF Nos. 15, 16). However, the Report was returned as "undeliverable" on September 17, 2020. (ECF No. 17). Based on his failure to comply with the Rules of Civil Procedure and the orders of the court,² it appears Plaintiff no longer wishes to pursue this action.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 Advisory Committee’s note).

After a careful and thorough review of the record under the appropriate standards, as set forth above, the court finds that Plaintiff’s case is subject to dismissal for failure to state a claim, failure to prosecute under Federal Rule of Civil Procedure 41(b), and for failure to comply with court orders. Accordingly, the court adopts the Report (ECF No. 15), and incorporates it herein. Therefore, this case is **DISMISSED with prejudice** and without issuance and service of process. The clerk of court shall provide a filed copy of this order to Plaintiff at his last known address.

² Specifically, as mentioned above, the magistrate judge issued a “Proper Form Order” on July 31, 2020, in which the court instructed Plaintiff to submit any changes in his address to the court in writing. (ECF No. 5 at 3). It is evident Plaintiff knew of this duty to update the court if his address changed, as he has previously filed a written notice of change of address. (ECF No. 14). Furthermore, the July 31st proper form order explicitly warned Plaintiff that his failure to keep the court informed as to his current address may result in the dismissal of his case. (ECF No. 5 at 3).

IT IS SO ORDERED.

s/ Timothy M. Cain
Timothy M. Cain
United States District Judge

Anderson, South Carolina
September 21, 2020

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.